

TENNESSEE CLEAN WATER NETWORK, ET AL. vs. TENNESSEE VALLEY AUTHORITY
John Kammeyer on 04/20/2016

1 IN THE UNITED STATES DISTRICT COURT
2 MIDDLE DISTRICT OF TENNESSEE

3
4 TENNESSEE CLEAN WATER NETWORK
5 AND TENNESSEE SCENIC RIVERS
6 ASSOCIATION,

7 Plaintiffs,

8 vs. Case No. 3:15-CV-00424

9 TENNESSEE VALLEY AUTHORITY

10 Defendant.

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Videotaped Deposition of:

JOHN KAMMEYER

Taken on behalf of the Plaintiffs

April 20, 2016 at 10:18 A.M.

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A P P E A R A N C E S

For the Plaintiffs:

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For the Defendant:

MR. DAVID D. AYLIFFE
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Also Present:

Tim Prairie, Videographer

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Witness: JOHN KAMMEYER
Examination By Ms. Alexander

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E X H I B I T S

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EXHIBIT

DESCRIPTION

PAGE

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Exhibit 19

Bore Report

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Exhibit 20

Stantec Memo

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Exhibit 21

Website Article from The
Tennessean Newspaper

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Exhibit 22

Gallatin Fossil Plant Coal
Combustion Products Disposal
Facilities

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Exhibit 23

Gabe Lang Report

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Exhibit 24

Discharge Monitoring Report

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Exhibit 25

Notice of Deposition

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1 S T I P U L A T I O N S

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3 The deposition of JOHN KAMMEYER was taken by
4 counsel for the Plaintiffs, by Notice, at the offices
5 of Tennessee Valley Authority, 1101 Market Street,
6 Chattanooga, Tennessee, on April 20, 2016, for all
7 purposes under the Tennessee Rules of Civil
8 Procedure.

9 All formalities as to caption, notice, statement
10 of appearance, et cetera, are waived. All
11 objections, except as to the form of the question,
12 are reserved to the hearing, and that
13 said deposition may be read and used in evidence in
14 said cause of action in any trial thereon or any
15 proceeding herein.

16 It is agreed that DEADRA D. RAGSDALE, LCR,
17 Notary Public, and Licensed Court Reporter for
18 the State of Tennessee, may swear the witness, and
19 that the reading and signing of the completed
20 deposition by the witness are not waived.

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1 interrogatories that were propounded in this case?

2 A. No. No. My staff does that. I sit in on
3 meetings, but I don't participate in actual
4 preparation of those responses.

5 Q. Well, I understand you don't type them
6 yourself. But do you -- did you have input into the
7 answers that were provided?

8 A. Not that I can remember.

9 Q. Who on your staff is delegated to do that
10 kind of work?

11 A. Oh. It's a large staff. I have 185 people
12 working for me.

13 Q. Well, you don't delegate it all -- those
14 types of tasks to all of those 185 people?

15 A. No. My direct reports, Katherine Ash, in
16 project management; Scott Turnbow, for engineering;
17 Ellen Cassidy, for construction. Below them, their
18 representatives. For project management reporting
19 to Katherine is Michael Clemmons. Reporting to
20 Scott Turnbow is Rachel Combs. Reporting to Ellen
21 Cassidy, it's Dana Williams.

22 Q. Okay. Were you ever provided with a
23 document that you were told is a litigation hold
24 document?

25 A. Yes, I've seen that. It's actually -- it's

1 repeated periodically, as I've seen a number of
2 those --

3 Q. Okay.

4 A. -- litigation holds to retain all
5 information.

6 Q. And what have you --

7 A. So I abide by it.

8 Q. What have you done to comply with the
9 litigation hold letter?

10 A. I file that. Anything that is relevant, I
11 put that in my electronic file. And what TVA will
12 do is eventually the lawyer will come and purge my
13 file and take all that and copy it and compare it to
14 everybody else's. I don't create documents. I
15 don't have anything original. But I do keep a file.

16 Q. Why don't you create documents?

17 A. I'm -- my -- that's not my role.

18 Q. Okay.

19 A. As the vice president, I'm not the one who
20 generates these things. I -- I lead, set
21 strategy --

22 Q. Do --

23 A. -- and manage my people.

24 Q. Do you use e-mail?

25 A. Yes.

1 Q. Do you have e-mail groups?

2 A. No.

3 Q. Do you use e-mail on a regular basis --

4 A. Yes.

5 Q. -- on a daily basis?

6 A. Yes.

7 Q. Okay. And have you set aside e-mails that
8 are relevant to this case in your electronic file?

9 MR. AYLIFFE: Object to the form.

10 You can answer.

11 THE WITNESS: Similar to the
12 paperwork, I don't generate those things. I respond
13 to.

14 BY MS. ALEXANDER:

15 Q. You don't ever send an e-mail?

16 A. No. I respond to e-mails. So, yes. And
17 those responses are all maintained. But I don't
18 generate. I get input and I respond to that input.

19 Q. So you never prepare an e-mail and send it
20 to somebody if you --

21 MR. AYLIFFE: Object -- object to the
22 form. You can --

23 BY MS. ALEXANDER:

24 Q. -- if you want to communicate with them?

25 MR. AYLIFFE: You can answer.

1 THE WITNESS: I can't -- I'm sure
2 that it's happened, but I can't think of a time in
3 the Gallatin case where I have started from a blank
4 e-mail and -- and wrote something down and said,
5 Here. It just doesn't work that way.

6 BY MS. ALEXANDER:

7 Q. Okay. So you've received e-mails that are
8 potentially relevant to this case, and you've set
9 them aside in an electronic file?

10 A. Responded to them --

11 MR. AYLIFFE: Object to the form.
12 You can answer.

13 THE WITNESS: Responded to them and,
14 therefore, they are in the system. My response
15 included, is in the system.

16 BY MS. ALEXANDER:

17 Q. And what system are they in?

18 A. In the TVA system, and all those things are
19 retained.

20 Q. Okay. Do you set them aside in a separate
21 e-mail file?

22 A. Do I? No.

23 Q. Okay. So they're not retained in any
24 fashion, other than the fact that they've been
25 created in the TVA system, is that right?

1 MR. AYLIFFE: Object to the form.

2 You can answer, if you know.

3 THE WITNESS: They are retained by
4 the initiator and retained by -- in the TVA system.
5 I do not retain them, no.

6 BY MS. ALEXANDER:

7 Q. Okay. What do you do with your e-mails when
8 you get them?

9 A. Make a choice of filing them, responding to
10 them, or discarding them. I make that decision the
11 first time I read it, and I implement that policy,
12 and then I'm done with it. I don't hang on to
13 e-mails.

14 Q. Did you understand that if you received
15 e-mails that were relevant to this lawsuit, that you
16 were expected to retain them?

17 MR. AYLIFFE: Object to the form.
18 You can answer.

19 THE WITNESS: TVA retains that. It's
20 in the system. So that's how I fulfilled that
21 requirement.

22 BY MS. ALEXANDER:

23 Q. Okay. You don't separately retain anything
24 for --

25 A. If I find it factually important, I may want

1 to retain it, then I will file it. I do make that
2 determination. I would file it, discard it, or
3 forward it for action, and respond to it.

4 Q. Okay. But to be clear, you haven't
5 specifically retained e-mails relevant to this
6 litigation because the litigation is pending?

7 MR. AYLIFFE: Object to the form.
8 You can answer.

9 THE WITNESS: I count on the TVA
10 system to maintain those. I don't keep a separate
11 file. And I don't -- if I were to create something,
12 I would. And if I get documents that come to me
13 specifically for the case, then I retain those. But
14 passing back and forth e-mails that I'm on a general
15 distribution for and not the creator, I don't keep
16 it in a separate file, routinely, unless it's
17 something I think is factually important that I
18 remember it.

19 BY MS. ALEXANDER:

20 Q. Okay. I understand that you might keep
21 e-mails that you find factually important. But you
22 don't keep them whether they are factually important
23 to you or not just because they are relevant to the
24 subject matter of this litigation?

25 A. I rely on the system --

1 MR. AYLIFFE: Object to the form.

2 You can answer.

3 THE WITNESS: I rely on the system to
4 do that. They're just --

5 BY MS. ALEXANDER:

6 Q. Okay. So you don't do it?

7 A. No, I do not.

8 Q. Okay. And do you know what TVA's document
9 retention policy is with respect to e-mails?

10 A. I know they keep everything. I don't know
11 the duration or I don't know the specifics on that.
12 I do know they keep them.

13 Q. Has anyone ever instructed you that you
14 should be retaining e-mails that are relevant to the
15 subject matter of this litigation?

16 MR. AYLIFFE: Object to the form.
17 You can answer.

18 THE WITNESS: No. Maybe in that memo
19 that comes out. Again, I'm -- on the e-mails, I'm
20 relying on the TVA system to retain that. That's my
21 interpretation.

22 BY MS. ALEXANDER:

23 Q. Okay. What is your title at TVA?

24 A. Vice president, civil projects; CCP
25 management; and equipment support services.

1 REPORTER'S CERTIFICATION

2 STATE OF TENNESSEE)

3 COUNTY OF HAMILTON)

4

5 I, DEADRA D. RAGSDALE, LCR, licensed court
6 reporter and notary public, in and for the State of
7 Tennessee, do hereby certify that the above
8 examination under oath was reported by me and that
9 the foregoing pages of the transcript is a true and
10 accurate record to the best of my knowledge, skills,
11 and ability.

8

9 I further certify that I am not related to
10 nor an employee of counsel or any of the parties to
11 the action, nor am I in any way financially
12 interested in the outcome of this case.

13 I further certify that in order for this
14 document to be considered a true and correct copy,
15 it must bear my original signature, and that any
16 unauthorized reproduction in whole or in part and/or
17 transfer of this document is not authorized, will
18 not be considered authentic, and will be in
19 violation of Tennessee Code Annotated 39-14-104,
20 Theft of Services.

15

16 I further certify that I am duly licensed
17 by the Tennessee Board of Court Reporting as a
18 Licensed Court Reporter as evidenced by the LCR
19 number and expiration date following my name below.

20 In witness whereof, I have hereunto set my
21 hand and affixed my notarial seal.

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22

23 DEADRA D. RAGSDALE, CCR, LCR #278
24 Expiration Date 6/30/2016
25 Notary Public Commission Expires: 8/7/2016

25